

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:

HECTOR DE LA ROSA  
TERRI DE LA ROSA  
DEBTOR

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§

CASE NO. 15-70561  
CHAPTER 13

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**TRUSTEE'S MOTION TO REJECT UNEXPIRED  
NON-RESIDENTIAL REAL PROPERTY LEASE**

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**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

NOW COMES Kevin P. Hanna, Chapter 7 Trustee in the above referenced cause, and files this Motion to Reject Unexpired Non-Residential Real Property Lease ("Motion") pursuant to 11 U.S.C. § 365(a), hereby moves this Court for the entry of an Order authorizing the Trustee to reject the unexpired lease attached as **Exhibit "A"** hereto, and in support of this Motion, the Trustee respectfully represents as follows:

### **I. Jurisdiction**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **II. Background**

2. Debtor Hector De La Rosa is a pharmacist that operates several pharmacies in Hidalgo County. On or about November 2, 2015, Debtor filed this Chapter 7 Bankruptcy Proceeding.

### **III. The Lease**

3. On or about April 14, 2014, the Debtor and ECU Properties, LLC entered into a Commercial Lease (the "Lease") wherein the Debtor agreed to lease the property located at 2004 E. Expressway 83, Suite 2, Weslaco, Texas 78596 (hereinafter "Leased Premises"). The Lease is attached hereto as **Exhibit "A"** and incorporated by reference.

4. Upon information and belief, in or around October of 2015, the Debtor defaulted on the terms of the Lease by failing to tender its rental payment in the amount of \$2,600 as required under the Lease. Since Debtor's bankruptcy filing, Debtor has not made any payments for the rental of the Leased Premises. The total amount necessary to cure Debtor's default under the Lease is \$10,400.00, plus late charges.

### **IV. Relief Requested**

5. By this Motion, the Trustee seeks entry of an Order, pursuant to section 365 of the Bankruptcy Code, authorizing the Trustee to reject the Lease.

**V. Basis for Relief Requested**

6. Section 365(a) of the Bankruptcy Code allows the trustee to assume any executory contract of the Debtor "subject to the court's approval."
7. The Lease was not terminated prior to the filing of the bankruptcy petition.
8. The Debtor is currently in default under the terms of the Lease. The default cannot be cured without undue burden on the bankruptcy estate.
9. The Lease is not a valuable asset of the Debtor's bankruptcy estate.
10. The rejection of the Lease will benefit the Debtor, its estate, and its creditors and is in the best interest of the Debtor's bankruptcy estate.
11. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests the entry of an Order authorizing the Debtor to assume the Lease and granting such other and further equitable relief as this Court deems just and proper.

Dated: March 24, 2016

Respectfully submitted,

/s/ KEVIN P. HANNA. w/permission  
KEVIN P. HANNA  
710 N. Mesquite  
PO Box 6821  
Corpus Christi, Texas 78466  
Corpus Christi, Texas 78401  
Email: [trusteeecf@kphannalaw.com](mailto:trusteeecf@kphannalaw.com)  
**CHAPTER 7 TRUSTEE**

**CERTIFICATE OF SERVICE**

I, **KEVIN P. HANNA**, hereby certify that a true and correct copy of the foregoing Trustee's Motion to Reject Unexpired Non-Residential Real Property Lease has been served by first class U.S. mail upon the following parties in interest on the 24<sup>th</sup> day of March, 2016:

**Debtor's Attorney:**

Antonio Villeda  
Attorney at Law  
6316 N. 10<sup>th</sup> St., Building B  
McAllen, Texas 78504

**Debtors:**

Hector De La Rosa  
1210 Hacienda Del Sol  
Weslaco, Texas 78596

Terry De La Rosa  
1210 Hacienda Del Sol  
Weslaco, Texas 78596

See Attached Creditor Matrix